



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

MAY 23 2014

CERTIFIED MAIL 7012 1010 0002 0759 6694
RETURN RECEIPT REQUESTED

The Honorable Andy Holt
A & E Livestock
461 Jewell Store Road
Dresden, Tennessee 38225

Re: Request for Information Pursuant to Section 308 of the Clean Water Act
A & E Livestock, Dresden, Tennessee (State permit pending)

Dear Mr. Holt:

Section 303 of the Clean Water Act (CWA), 33 U.S.C. § 1251, *et seq.*, prohibits the discharge of pollutants into waters of the United States except as authorized by a National Pollutant Discharge Elimination System permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.

The United States Environmental Protection Agency Region 4 is investigating A & E Livestock, located at 357 Woodruff Road, Dresden, Tennessee 38225 (36°18.421'N latitude, 88°39.911'W longitude) to evaluate its compliance with Sections 301 and 402 of the CWA and the regulations promulgated thereunder at 40 C.F.R. § 122.23. Pursuant to Section 308 of the CWA, the EPA is authorized to gather information to carry out the objectives of the CWA. Compliance with this Information Request is mandatory. If you do not respond fully and truthfully to this Information Request, you may be subject to civil or criminal penalties as authorized by Section 309 of the CWA. Please be aware that compliance with this Information Request does not relieve you of any responsibilities under the CWA or any other federal statute.

Please provide your response to this Information Request within 30 days of receipt of this letter to:

Mr. Don M. Joe
Environmental Engineer & CAFO Lead
Stormwater & Residuals Enforcement Section
Clean Water Enforcement Branch
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, SW
Atlanta, Georgia 30303

The Securities and Exchange Commission (SEC) requires its registrants to periodically disclose environmental legal proceedings in statements filed with the SEC. To assist you, the EPA has enclosed a document entitled "Notice of Securities and Exchange Commission Registrants Duty to Disclose Environmental Legal Proceedings."

Also, please find enclosed information for small businesses that may be subject to an EPA enforcement action, to assist you in understanding resources and tools that may be available to you.

Please contact Mr. Joe at (404) 562-9751, if you have any questions regarding this matter. Any legal inquiries should be directed to Ms. Judy Marshall, Associate Regional Counsel, at (404) 562-9533.

Sincerely,



Denisse D. Diaz, Chief
Clean Water Enforcement Branch
Water Protection Division

Enclosures

cc: Ms. Jessica Murphy
Tennessee Department of Environment and Conservation

U.S. EPA CWA SECTION 308 INFORMATION REQUEST

Instructions

1. Provide a separate narrative response to each and every question and subpart of a question set forth in this Information Request.
2. Precede each answer with the number of the question and subpart of the question to which it corresponds.
3. Any documents produced in response to and/or relied upon or used by you to answer any of the questions in this Information Request must be copied and submitted to the EPA with your response. All documents must contain a notation indicating the question and subpart of the question to which they are responsive.
4. You must provide the information requested even though you may contend that it includes confidential information or trade secrets. You may, if you desire, assert a confidentiality claim covering part or all of the information requested, pursuant to 40 C.F.R. Section 2.203(b), by attaching to such information at the time it is submitted, a cover sheet with the words "trade secret," "proprietary," or "company confidential" stamped or typed on it. Information covered by such claim will be disclosed by the EPA only to the extent, and only by means, of the procedures set forth at 40 C.F.R. Section 2.203(b). If no such claim accompanies the information when it is received by the EPA, it may be made available to the public by the EPA without further notice to you. You should read the above cited regulation carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim.
5. If any question cannot be answered in full, answer to the extent possible along with an explanation of why the question cannot be answered in full. If your responses are qualified in any manner, please explain.
6. If information or documents not known or not available to you as of the date of submission of your response to this request should later become known or available to you, you must supplement your response to the EPA. Moreover, should you find, at any time after the submission of your response, that any portion of the submitted information is false or misrepresents the truth, you must notify the EPA of this fact as soon as possible and provide a corrected response.
7. The following Statement of Certification must be submitted along with your response every time a submission is made pursuant to this Information Request:

I certify under the penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Definitions

The following definitions shall apply to the following words as they appear in the questions below:

1. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in the Clean Water Act, or regulations promulgated thereunder, in which case the statutory or regulatory definitions shall apply.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
4. The term “identify” means, with respect to a natural person, to set forth the person’s name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
5. The term “identify” means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressee and/or recipient, and substance of the subject matter.
6. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (*e.g.*, corporation, partnership, etc.), organization, if any, and a brief description of its business.
7. The term “Facility” means A & E Livestock, located at 357 Woodruff Road, Dresden, Tennessee 38225 (36°18.421’N latitude, 88°39.911’W longitude).
8. The term “you” and/or “Respondent” shall mean the owner or operator of the Facility.
9. “Record” is defined as any recording of information in tangible form. It includes, but is not limited to, documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer print outs and computer data bases, whether such are in print or electronic form.
10. “Document” or “Documentation” is defined as any writings, drawings, graphs, charts, photographs, phone records, electronic mail, facsimile, and other data compilations from which information can be obtained, or translated if necessary, into reasonably usable form. Documents should be produced as they are kept in the usual course of business.

Questions

Unless otherwise noted, all requested information and responses shall address the time period from May 15, 2009, to the date of receipt of this letter.

1. Identify the legal name and physical location of the Facility.
2. Identify the legal owner and title of the Facility, and provide the mailing address and telephone number of the Facility owner.
3. Identify the persons and/or entities responsible for operating and maintaining the Facility, as well as the mailing address and telephone number of such persons and/or entities. Include a description of the persons' and/or entities' responsibilities related to operating and maintaining the Facility.
4. Describe the type and size of animal operation conducted at the Facility, including the number and type of animals housed at the Facility.
5. Identify and provide copies of all local, State or federal permits concerning this Facility, (*e.g.*, Clean Water Act Section 402 or 404 permit).
6. Provide a map of the Facility identifying the property boundaries, confinement areas, management areas, waste storage structures, land application fields and all water bodies (*e.g.* streams, creeks, etc) and wetlands located on or within one mile of the Facility.
7. Identify the recommended crops for each land application field, as well as the recommended nutrient application rate according to the waste utilization plan or Nutrient Management Plan (NMP).
8. Provide a record of the type of crops planted and harvested for each field and the dates of each planting or harvest.
9. Provide a record of the land application to each field including the method of waste application (*i.e.*, spray gun), the date of application and the amount of waste applied to each field per application.
10. Provide copies of all soil and waste analysis reports.
11. Provide copies of all documents, including, but not limited to, records of any inspections of the Facility, maintenance records, annual reports, DMRs, daily rainfall logs, waste transfer records, composting records, well water sampling results and any other documents required to be kept or maintained by the Facility's NMP, NPDES permit or other permits.
12. Provide copies of any documents and/or correspondence between the Facility and any of the following: Tennessee Department of Environment and Conservation, Department of Agriculture or Natural Resources Conservation Service.
13. Provide copies of any citations, Notices of Violation or similar documents issued by the State or any federal agency concerning this Facility.
14. Provide copies of any formal or informal agreements regarding the operation and/or management of the Facility, including, but not limited to, contracts, leases and/or operating agreements.

15. Identify and provide copies of any plans including, but not limited to, standard operating procedures, current management practices and NMP, for operating and maintaining the Facility.
16. Describe any practices, including, but not limited to, stormwater controls or other Best Management Practices, used by the Facility to prevent pollutants (*e.g.*, animal waste, chemicals, etc.) from entering streams, creeks, wetlands or other waters on or around the Facility, and describe any actions taken by the Facility to ensure compliance with the Clean Water Act.
17. Describe any release or discharge of pollutants from this Facility to streams, creeks, wetlands or other water bodies on or around the Facility. This description shall include the date of the release or discharge, weather conditions, cause, duration, volume, any actions taken to mitigate and/or cease the release or discharge, and name of any water bodies affected by the release. Identify and provide copies of any records and/or documentation of these releases.



Office of Enforcement and Compliance Assurance
INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture

(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry

(www.ecarcenter.org)

Automotive Service and Repair

(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry

(www.chemalliance.org)

Construction Industry

(www.cicacenter.org or 1-734-995-4911)

Education

(www.campuserc.org)

Healthcare Industry

(www.hercenter.org or 1-734-995-4911)

Metal Finishing

(www.nmfr.org or 1-734-995-4911)

Paints and Coatings

(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing

(www.pwbr.org or 1-734-995-4911)

Printing

(www.pneac.org or 1-888-USPNEAC)

Transportation Industry

(www.transource.org)

Tribal Governments and Indian Country

(www.epa.gov/tribal/compliance or 202-564-2516)

US Border Environmental Issues

(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators (www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page

www.epa.gov

Small Business Gateway

www.epa.gov/smallbusiness

Compliance Assistance Home Page

www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance

www.epa.gov/compliance

Voluntary Partnership Programs

www.epa.gov/partners



U.S. EPA SMALL BUSINESS RESOURCES

Hotlines, Helplines & Clearinghouses

(www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

Clean Air Technology Center

(www.epa.gov/ttn/catc or 1-919-541-0800)

Emergency Planning and Community Right-To-Know Act

(www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information.

(www.epa.gov/sbo or 1-800-368-5888)

The National Environmental Compliance Assistance Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers (www.epa.gov/clearinghouse)

National Response Center to report oil and hazardous substance spills.

(www.nrc.uscg.mil or 1-800-424-8802)

Pollution Prevention Information Clearinghouse

(www.epa.gov/opptintr/ppic or 1-202-566-0799)

Safe Drinking Water Hotline

(www.epa.gov/safewater/hotline/index.html or 1-800-426-4791)

Stratospheric Ozone Refrigerants Information

(www.epa.gov/ozone or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.

(1-202-554-1404)

Wetlands Helpline

(www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

EPA's Small Business Ombudsman

(www.epa.gov/sbo or 1-800-368-5888)

Small Business Environmental Homepage

(www.smallbiz-enviroweb.org or 1-724-452-4722)

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

The Small Business Compliance Policy

(www.epa.gov/compliance/incentives/smallbusiness)

Audit Policy

(www.epa.gov/compliance/incentives/auditing)

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the environmental legal proceeding at issue, as well as any other proceedings known to be contemplated by governmental authorities.

If you have any questions about the SEC's environmental disclosure requirements, please contact the SEC Office of the Special Senior Counsel for Disclosure Operations at (202) 942-1888.

[Code of Federal Regulations]
[Title 17, Volume 2, Parts 200 to 239]
[Revised as of April 1, 1999]
From the U.S. Government Printing Office via GPO Access
[CITE: 17CFR229.103]

[Page 349]

TITLE 17--COMMODITY AND SECURITIES EXCHANGES

CHAPTER II--SECURITIES AND EXCHANGE COMMISSION

PART 229--STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975-- REGULATION S-K--Table of Contents

Subpart 229.100--Business

Sec. 229.103 (Item 103) Legal proceedings.

Describe briefly any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions to Item 103:

1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.
2. No information need be given with respect to any proceeding that involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same legal and factual issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.
3. Notwithstanding Instructions 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described.
4. Any material proceedings to which any director, officer or affiliate of the registrant, any owner of record or beneficially of more than five percent of any class of voting securities of the registrant, or any associate of any such director, officer, affiliate of the registrant, or security holder is a party adverse to the registrant or any of its subsidiaries or has a material interest adverse to the registrant or any of its subsidiaries also shall be described.
5. Notwithstanding the foregoing, an administrative or judicial proceeding (including, for purposes of A and B of this Instruction, proceedings which present in large degree the same issues) arising under any Federal, State or local provisions that have been enacted or adopted regulating the discharge of materials into the environment or primary for the purpose of protecting the environment shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if:
 - A. Such proceeding is material to the business or financial condition of the registrant;
 - B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
 - C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.